

another direction, equally convenient, over the route of the railroad; that the inquisition was not withheld at the instance of these defendants; but was, in fact, returned within a very short time after it was taken, and to the then next session of the County Court; and the hearing of the plaintiff's exceptions to it was necessarily, and only postponed to the next term, because he refused to consent to the fixing of a day in that term for the hearing; that there had been no procrastination at the instance of the company in the taking or returning of the inquisition, or of the hearing of the exceptions to it; that the warrant for the taking of it had been issued by a justice of the peace; and it had been, in all respects, regularly and legally executed, with full notice, and in the presence of the plaintiff and his solicitor, who was fully heard by the jury.

The defendants after filing their answer gave notice of a motion to dissolve the injunction as allowed by the order of the 17th of May.

BLAND, C., 4th June, 1831.—This case standing ready for hearing on the motion to dissolve the injunction, and the solicitors of the parties having been fully heard, the proceedings were read and considered.

The Act of Assembly by which this company have been incorporated, authorized them to construct a railroad from the City of Baltimore to the River Susquehanna; and, for the purpose of executing * that work, deemed to be of public utility, they
388 have been authorized to cause lands, held as private property, to be taken and condemned to that use; and, according to the mode specified, the owners are allowed to obtain a compensation for the injury they may sustain by the construction of the proposed railroad over their lands. 1827, ch. 72. It has not been intimated that this legislative enactment is, in this or in any other respect, unconstitutional; and therefore, the only question which this Court can now be called upon to consider are such as relate to the fairness of the conduct of the body politic in the execution of their Act of incorporation.

By its fifteenth section it is declared, that in all cases where the company cannot agree with the owner of any land which may be wanted for their road, they may have it condemned by a jury to their use. It is not said that the damages must be ascertained by a jury before the company enters upon the land for the purpose of constructing their road; nor is any time specified within which the inquisition must be taken; but it is declared that the inquisition shall be returned to the clerk of the county, and shall be confirmed by the Court at its next session, if no sufficient cause to the contrary be shewn; and when confirmed shall be recorded; and further, that upon the payment of the valuation to the owner